

Washington justices uphold WSU water rights in golf course case

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SEATTLE — The state Supreme Court on Thursday sided with Washington State University in a case that challenged the school's right to use dwindling stores of groundwater on a new golf course.

In a 6-3 decision that came nearly two years after oral arguments, the justices ended a dispute over the Palouse Ridge Golf Club, an 18-hole course that replaced a nine-hole version when it opened in 2008.

The new course was controversial because even though it has water-conserving features such as drought-resistant grass and sophisticated irrigation controls, it still draws nearly 45 million gallons of water a year — about one-tenth of the university's total water use. Meanwhile, levels of the aquifer that supplies water to the entire region, including the cities of Pullman and Moscow, Idaho, have dropped drastically in the past century.

"This is irreplaceable water," said Rachael Osborn, a lawyer for conservationists who challenged the golf course irrigation. "Everyone acknowledges the groundwater system in the Pullman area is in terrible shape. And while the court said they understood that, they didn't rule in a way that will in any way ease that problem."

The case was brought by Scott Cornelius, a Pullman resident who has seen water levels fall in his own well. He argued the water rights at issue were given to WSU for domestic or stock uses in the 1960s — and that they should have been revoked because the school didn't use them. He challenged a decision allowing the university to re-label those rights to allow for municipal uses such as a golf course.

Ecology Department spokesman Dan Partridge said the agency was pleased the court upheld its actions. In a written statement, the department characterized WSU as having changed the locations of six wells to improve efficiency and reliability in its drinking water system for dorms and apartment buildings on campus.

The statement didn't mention the golf course, which draws tens of millions of gallons of water a year. Asked whether irrigating the links in an area serviced by a declining aquifer is wise policy, Partridge said that in this case, "We were convinced that this could be done in a reasonably efficient manner and that it was a legitimate use of those water rights."

The new course was intended to improve the school's golf teams, provide a laboratory for students in turf grass courses, and give boosters and alumni a new reason to visit the campus.

Dan Costello, an assistant vice president at WSU, said the university “has shown exceptional stewardship in managing our water resources,” and that thanks to conservation measures it pumped 462 million gallons in 2013 — nearly one-quarter less than it pumped 20 years earlier.

Historically in Washington, permission to use water could be rescinded or reduced if the person who had the water right didn’t use it, or didn’t use all of it, for a five-year period.

But in 2003, the Legislature amended state water law to clarify that water rights issued for “municipal” use prior to that year remained in good standing and were not subject to being rescinded for non-use.

Among other things, the complex case turned on whether WSU’s water rights at issue were for domestic and stock uses, as they originally stated, or for municipal use.

Writing for the majority, Justice Susan Owens said the answer was clear, given that WSU’s permits allow it to pump more than 971 million gallons annually.

“It makes no sense to say that in 1962 and 1963, Ecology issued WSU the right to pump over 971 million gallons of water per year but never intended WSU to use that water for municipal purposes,” Owens wrote.

But Chief Justice Barbara Madsen wrote in dissent that the distinction between domestic and municipal water rights in the West is longstanding and should not be disregarded.

“For example, the holder of a water right for domestic uses would not have been entitled to use the water under the right for a public golf course, although the holder of a water right for municipal uses could do so,” she wrote.

Madsen said she would have sent the case back to the Pollution Control Hearings Board, which hears appeals of Ecology decisions, to determine the extent to which the university had relinquished its water rights.

“It is undisputed ... that long-term declining water levels in the Grand Ronde Aquifer threaten all of the water users in the basin if not addressed adequately,” Madsen noted. “At the present time, the only recognized way to slow or reverse the aquifer decline is to reduce the withdrawal of water from it.”